

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

PADEN EL BEY: TIFFANY,

Plaintiff

v.

COX COMMUNICATION, et al.

Defendants.

Case No. 2:23-cv-00391-CDS-NJK

**REPORT AND RECOMMENDATION**

On March 14, 2023, Plaintiff was ordered to show cause why this case should not be dismissed for lack of subject matter jurisdiction. Docket No. 3. To date, Plaintiff has not responded to the order to show cause and the deadline to do so has now passed. *See* Docket.

The Court has a duty to ensure that it has subject matter jurisdiction over the dispute before it, which is an issue it can raise at any time. *See, e.g.,* Fed. R. Civ. P. 12(h)(3). “It is to be presumed that a cause lies outside this limited jurisdiction, and the burden of establishing the contrary rests on the party asserting jurisdiction.” *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). Plaintiff has failed to satisfy her burden of showing that this Court has subject matter jurisdiction over the instant case and, therefore, the case must be dismissed. Fed. R. Civ. P. 12(h)(3).

Moreover, Plaintiff’s refusal to respond to this Court’s order has interfered with the Court’s ability to hear this case, delayed litigation, disrupted the Court’s timely management of its docket, wasted judicial resources, and threatened the integrity of the Court’s orders and the orderly administration of justice. Sanctions less drastic than dismissal are unavailable because Plaintiff has refused to comply with the order of this Court notwithstanding the warning that the case may be dismissed.

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2 Therefore, the undersigned **RECOMMENDS** that this case be **DISMISSED** without  
3 prejudice.

4 Dated: May 23, 2023

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Nancy J. Koppe  
United States Magistrate Judge

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8 **NOTICE**

9 This report and recommendation is submitted to the United States District Judge assigned  
10 to this case pursuant to 28 U.S.C. § 636(b)(1). A party who objects to this report and  
11 recommendation must file a written objection supported by points and authorities within fourteen  
12 days of being served with this report and recommendation. Local Rule IB 3-2(a). Failure to file  
13 a timely objection may waive the right to appeal the district court's order. *Martinez v. Ylst*, 951  
14 F.2d 1153, 1157 (9th Cir. 1991).